



Filed: 2/28/2007

09500HB0818ham001

LRB095 08558 MJR 31880 a

1 AMENDMENT TO HOUSE BILL 818

2 AMENDMENT NO. _____. Amend House Bill 818 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by adding
5 Section 4-605 as follows:

6 (220 ILCS 5/4-605 new)

7 Sec. 4-605. Prohibition against the installation,
8 operation, and maintenance of electric distribution facilities
9 and equipment.

10 (a) The General Assembly finds that the installation,
11 maintenance, and operation of electric distribution facilities
12 and equipment has traditionally been performed by electric
13 utility employees and personnel of electric utility
14 contractors who have the requisite skills, training, and
15 experience to properly and safely install, maintain, and
16 operate these facilities and equipment. The General Assembly

1 further finds that it is unjust and unreasonable and a public
2 safety and system reliability hazard for retail customers or
3 persons or entities on their behalf to install, maintain or
4 operate electric distribution facilities or equipment.

5 (b) For purposes of this Section:

6 "Retail customer" and "electric utility" have the same
7 meanings as those terms are defined in Section 16-102 of the
8 Public Utilities Act.

9 "Electric distribution facilities and equipment" means all
10 of the facilities and equipment, including, but not limited to,
11 substations, distribution feeder circuits, switches,
12 protective equipment, primary circuits, distribution
13 transformers, line extensions and service extensions both
14 above or below ground, conduit, risers, elbows, transformer
15 pads, junction boxes, manholes, pedestals, conductors, and all
16 associated fittings that connect the transmission system to
17 either the weatherhead on the retail customer's building or
18 other structure for above ground service or to the terminals on
19 the meter base of the retail customer's building or other
20 structure for below ground service.

21 (c) Notwithstanding any law, tariff, Commission rule,
22 order, or decision to the contrary, no electric utility shall
23 allow a retail customer or any person, corporation, or agent on
24 behalf of such customer to install, operate, or maintain any
25 electric distribution facility or equipment. The installation,
26 operation, and maintenance of any electric distribution

1 facility or equipment shall be the obligation of the electric
2 utility that provides delivery services to the retail customer.

3 (d) Subsection (c) of this Section shall not apply to a
4 retail customer of a municipal system or electric cooperative
5 as the terms "municipal system" and "electric cooperative" are
6 respectively defined in Sections 3-119 and 16-102 of the Public
7 Utilities Act.

8 (e) The employees of an electric utility, including the
9 collective bargaining representative or representatives of
10 such employees, that are obligated to install, operate, or
11 maintain electric distribution facilities and equipment shall
12 have an independent statutory cause of action under State law
13 to file a complaint against an electric utility, retail
14 customer or person, corporation, or agent acting on behalf of a
15 retail customer in circuit court for alleged violations of
16 subsection (c) of this Section.

17 The employees of an electric utility, including the
18 collective bargaining representative or representatives of
19 such employees, may file a complaint in the circuit court of
20 Cook, Sangamon, or Madison County or the circuit court of any
21 county in which the alleged violation of subsection (c) of this
22 Section has or is about to occur in order to have the alleged
23 violation stopped or prevented either by mandamus or
24 injunction. The circuit court shall specify a time, not
25 exceeding 21 days after the service of the copy of the
26 complaint for mandamus or injunction for the filing of an

1 answer, and in the meantime the named defendant or defendants
2 shall be restrained from continuing an alleged violation
3 pending a hearing before the court. In the event of default, or
4 after answer, the circuit court shall immediately inquire into
5 the facts and circumstances of the case and enter an
6 appropriate order with respect to the matters in the complaint.
7 An appeal may be taken from the final judgment in the same
8 manner and with the same effect as appeals are taken from
9 judgments of the circuit court in other actions for mandamus or
10 injunction.

11 Nothing in this subsection (e) shall limited the rights of
12 employees of an electric utility, including the collective
13 bargaining representative or representatives of such
14 employees, that is obligated to install, operate, or maintain
15 electric distribution facilities and equipment to file a
16 complaint against the electric utility, retail customer or
17 person, corporation, or agent acting on behalf of a retail
18 customer with the Commission for alleged violations of
19 subsection (c) of this Section.

20 (f) In any case in which an employee of an electric
21 utility, including the collective bargaining representative or
22 representatives of such employees, demonstrates that an
23 electric utility, retail customer or a person, corporation, or
24 agent acting on behalf of a retail customer has violated or is
25 about to violate subsection (c) of this Section, the circuit
26 court shall permanently restrain the defendant or defendants

1 from continuing the alleged violation and award the party
2 bringing the action the reasonable expenses of the litigation,
3 including all reasonable attorney's fees. The circuit court
4 shall impose a civil penalty of not less than \$2,000 and not
5 greater than \$30,000 for each violation. Each violation of
6 subsection (c) of this Section shall be considered a separate
7 and distinct violation. In the event of a continuing violation,
8 each day's continuance thereof shall be a separate and distinct
9 offense, provided, however, that the cumulative penalty for any
10 continuing violation shall not exceed \$500,000, and that these
11 limits shall not apply where the violation was intentional and
12 either (i) created substantial risk to the safety of the
13 utility's employees or customers or the public; or (ii) was
14 intended to cause economic benefits to accrue to the violator.
15 No penalties shall accrue under this subsection (f) until 15
16 days after the mailing of a notice to such party or parties
17 that they are in violation of subsection (c) of this Section,
18 except that this notice provision shall not apply when the
19 violation was intentional.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."